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May 17, 2004

**BY HAND AND BY E-MAIL**

Mary L. Cottrell, Secretary  
Department of Telecommunications and Energy  
One South Station, 2nd Floor  
Boston, MA 02110

Re: NStar Companies, D.T.E. 03-121

Dear Secretary Cottrell:

Enclosed for filing in the above-referenced proceeding is the Joint Supporters' supplemental response to Information Request NSTAR-JS-1-2. The supplemental response is designated NSTAR-JS-1-2 (Supp). The supplement is a recent order of the New York PSC that was discussed on the record of the proceeding on May 11, 2004, and which the hearing officer asked to be filed.

Please do not hesitate to call if you have any questions. Please acknowledge receipt by stamping the enclosed copy of this letter and returning it to the messenger. Thank you.

Sincerely,



Bruce S. Barnett

BSB/Inf  
Enclosure

cc: William Stevens, Hearing Officer (by hand)  
John Cope-Flanagan, Hearing Officer (by hand)  
Sean Hanley (by hand)  
Claude Francisco (by hand)  
Xuan Yu (by hand)  
Robert Harrold (by hand)  
Jeff Hall (by hand)  
Joseph Passaggio (by hand)  
Meera Bhalotra (by hand)  
David S. Rosenzweig, Esq. (by hand)  
D.T.E. 03-121 Service List (By U.S. mail or e-mail)

Information Request NSTAR-JS-1-1

Provide copies of all regulatory decisions addressing the issues covered by Mr. Lively in testimony provided in response to Information Request NSTAR-JS-1-1. Identify the decision making authority, docket number, year of the decision and any official citation to the decision.

Supplemental Response

Please see Attachment NSTAR-JS-1-2 (Supp.) for the following recent decision by the New York Public Service Commission:

ATTACHMENT NSTAR-JS-1-2 (Supp.)

CASE 02-E-0551 -- Rochester Gas & Electric Corporation  
CASE 02-E-0779 -- New York State Electric & Gas Corporation  
CASE 02-E-0780 -- Orange & Rockland Utilities, Inc.  
CASE 02-E-0781 -- Consolidated Edison Company of New York, Inc.

Proceeding on Motion of the Commission as to Electric Tariff Filings to Establish New Standby Services in Accordance with Commission Order Issued October 26, 2001 in Case 99-E-1470

Compliance filings by above-listed utilities pursuant to the Commission's Order issued January 23, 2004 in Cases 02-E-0551, et al.

ORDER DIRECTING RG&E AND NYSEC TO MODIFY STANDBY SERVICE TARIFFS BY SOME LISTED UTILITIES AND MAKING TARIFFS OF ALL LISTED UTILITIES PERMANENT ON MAY 14, 2004.  
(Issued and Effective May 7, 2004).

Filed Session of May 5, 2004  
Approved as Recommended  
and so Ordered  
By the Commission

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JACLYN A. BRILLING  
Secretary

Issued and Effective May 7, 2004

STATE OF NEW YORK  
DEPARTMENT OF PUBLIC SERVICE

April 20, 2004

TO: THE COMMISSION

FROM: OFFICE OF ELECTRICITY AND ENVIRONMENT -- Rates & Retail  
Choice

SUBJECT: CASE 02-E-0551 – Rochester Gas & Electric Corporation  
CASE 02-E-0779 – New York State Electric & Gas Corporation  
CASE 02-E-0780 – Orange & Rockland Utilities, Inc.  
CASE 02-E-0781 – Consolidated Edison Company of New York, Inc.

Proceeding on Motion of the Commission as to Electric Tariff Filings to  
Establish New Standby Services in Accordance with Commission Order  
Issued October 26, 2001 in Case 99-E-1470.

Compliance filings by above-listed utilities pursuant to the Commission's  
Order issued January 23, 2004 in Cases 02-E-0551, et al.

SUMMARY OF

RECOMMENDATION: Staff recommends that New York State Electric & Gas  
Corporation and Rochester Gas & Electric Corporation file  
further revisions and that the filings made by all the utilities  
become effective on a permanent basis on May 14, 2004.

Summary

Consolidated Edison Company of New York, Inc. (Con Edison), New York  
State Electric & Gas Corporation (NYSEG), Orange & Rockland Utilities, Inc. (O&R)  
and Rochester Gas & Electric Corporation (RG&E) (collectively, the utilities) filed

amendments (see Appendix) to their electric tariff schedules, currently effective on a temporary basis, in compliance with the Commission's Order Directing Modifications to Standby Service Tariffs issued January 23, 2004 in Cases 02-E-0551, 02-E-0779, 02-E-0780, 02-E-0781, and 02-E-1108 (January 23 order). The January 23 order directs the utilities to file modifications to the standby service tariffs regarding the effectuation of phase-in and exemption options available to qualifying customers with on-site generation (OSG). Specifically, the January 23 order establishes a single eight-year phase-in period for both existing customers and customers installing designated technologies. The January 23 order also establishes and clarifies the criteria OGS customers must meet to qualify as a designated technology customer that is eligible to elect the exemption from standby service rates, allowing it to take service at standard service rates instead.

Staff has reviewed the filings and finds the Con Edison and O&R filings are in compliance with the January 23 order. Therefore, these filings should be allowed to become effective on a permanent basis on May 14, 2004. Staff also finds, however, that the NYSEG and RG&E filings are not in compliance with the January 23 order in their treatment of customers that may be defined as both an existing customer and a designated technology customer. Staff recommends that NYSEG and RG&E be directed to file additional modifications to their tariffs prescribing the proper treatment of those customers.

#### Background

The January 23 order reiterated and clarified the Commission's decision to allow any designated technology customer that brings its facility on-line between July 29, 2003 and May 31, 2006 the option of electing the exemption from standby service rates. The Commission also reaffirmed that the exemption option would not be available to those designated technology customers that brought their projects on-line prior to July 29,

2003 or after May 31, 2006. Under the Standby Rate Orders,<sup>1</sup> however, the Commission also provided that any customer that commenced construction or obtained financing on or before January 31, 2003, would qualify as an existing customer eligible for the eight-year phase-in. Therefore, under certain circumstances a customer may qualify as both an existing customer and a designated technology customer eligible to opt for either the exemption or the phase-in.

#### Discussion

In their compliance filings, NYSEG and RG&E state that if a designated technology customer could also be considered as an existing customer, it would not be eligible for the exemption. Conversely, Con Ed and O&R state in their compliance filings that a designated technology customer, even if it also qualifies as an existing customer, would be eligible for the exemption, as long as its in-service date falls within the qualification period of July 29, 2003 through May 31, 2006.

The Standby Rate Orders, as clarified by the January 23 order, provide that designated technology customers are eligible for the exemption from standby service rates if a customer's project enters service during the July 29, 2003 through May 31, 2006 period. Nothing in the Commission's orders prevents a designated technology customer from choosing the exemption from standby service rates, as long as it meets the eligibility criteria defined by the Commission, regardless of whether or not it meets the definition of an existing customer. Instead, the January 23 order provides that the exemption is an additional option (order, p. 2), not a substitute option, and that designated technologies are eligible "to select among a full range of options;... [e]liminating an option...is not

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<sup>1</sup> Case 02-E-0551, supra, Order Establishing Electric Standby Rates (issued July 29, 2003); Case 02-E-0779, supra, Order Establishing Electric Standby Rates (issued July 30, 2003); Case 02-E-0780, et al., supra, Order Establishing Electric Standby Rates (issued July 29, 2003); Case 02-E-1108, supra, Order Establishing Electric Standby Rates (issued December 4, 2003).

necessary or appropriate." (order, p. 5). Con Edison and O&R correctly interpreted the order; the NYSEG and RG&E interpretation is incorrect.

Conclusion

The filings made by NYSEG and RG&E are not in compliance with the January 23 order.

Recommendation

It is recommended that:

1. the filings, as listed in the appendix, be allowed to become effective on a permanent basis on May 14, 2004;
2. New York State Electric & Gas Corporation and Rochester Gas & Electric Corporation be directed to file further revisions, on not less than one day's notice, to become effective May 14, 2004, to allow customers who qualify as both an existing customer and a designated technology customer, and installs their on-site generator on or after July 29, 2003 and on or before May 31, 2006, to opt for the standby service exemption and to eliminate from the tariffs any prohibition preventing that election by qualified customers;
3. the requirement of Section 66(12)(b) of the Public Service Law as to newspaper publication of the amendments directed in Clause 2 above be waived; and
4. Cases 02-E-0780 and 02-E-0781 be closed; and Cases 02-E-0551 and 02-E-0779 be continued but shall be closed by the Secretary as soon as the compliance filings have been reviewed, unless the Secretary finds good cause to continue the proceedings further.

Respectfully submitted,

MICHAEL RIEDER  
Utility Engineer 2

ROSANNE ERETANO  
Utility Analyst 2

CASE 02-E-0551, et al.

Reviewed by:

LEONARD VAN RYN  
Assistant Counsel  
Office of General Counsel  
Approved by:

DOUGLAS E. LUTZY  
Associate Chief, Rates & Retail Choice  
Office of Electricity and Environment



SUBJECT: Filings by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

Amendments to Schedule P.S.C. No. 9 – Electricity  
Fifth Revised Leaf No. 228-B  
Sixth Revised Leaf No. 294-A

Amendment to PASNY No. 4  
Sixth Revised Leaf No. 15

Issued: August 6, 2003                      Effective: August 7, 2003

Amendments to Schedule P.S.C. No. 2 – Retail Access  
Original Table of Contents Page  
Original Leaves Nos. 180-A, 180-B, 180-C  
First Revised Leaves Nos. 145, 146, 147, 148, 149, 150, 151, 152,  
153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165,  
166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178,  
179, 180  
Fourth Revised Leaves Nos. 135, 138, 140, 141, 142, 143, 144  
Sixth Revised Leaves Nos. 136, 137, 139  
Ninth Revised Leaf No. 4  
Twelfth Revised Leaves Nos. 32, 38, 104, 110  
Fifteenth Revised Leaf No. 44

Amendments to Schedule P.S.C. No. 9 – Electricity  
Second Revised Leaf No. 158-Y-3  
Third Revised Leaves Nos. 47, 136-A, 158-Y, 158-Y-4, 158-Y-5,  
242  
Fourth Revised Leaves Nos. 85, 216, 282  
Fifth Revised Leaves Nos. 28, 45, 158-J, 304, 305  
Seventh Revised Leaves Nos. 81, 158-A  
Eighth Revised Leaves Nos. 62, 145  
Ninth Revised Leaves Nos. 135, 158-S  
Tenth Revised Leaf No. 136  
Eleventh Revised Leaves Nos. 59-A, 158-C  
Fifteenth Revised Leaf No. 138-A

Filings by CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (Cont'd)

Amendments to Schedule PASNY No. 4

Original Leaves Nos. 13-C, 15-B, 15-C, 15-D

First Revised Leaves Nos. 6-A, 6-C, 6-D, 6-E, 6-F, 6-G, 8-A, 9-A,  
13-A, 13-B

Third Revised Leaves Nos. 2, 8, 10-B, 14, 15-A, 16, 24-A, 25

Fourth Revised Leaves Nos. 9, 10, 10-A, 11, 13, 28

Fifth Revised Leaf No. 7-A

Seventh Revised Leaf No. 15

Eighth Revised Leaves Nos. 5, 6, 7

Ninth Revised Leaf No. 3

Issued: November 3, 2003

Effective: February 1, 2004

Amendments to Schedule P.S.C. No 2 – Retail Access

First Revised Leaves Nos. 180-A, 180-B

Second Revised Leaf No. 180

Fifth Revised Leaf No. 142

Issued: January 30, 2004

Effective: February 1, 2004

Amendments to Schedule PASNY No. 4

First Revised Leaf No. 15-B

Fourth Revised Leaf No. 15-A

Eighth Revised Leaf No. 15

Issued: January 30, 2004

Effective: February 1, 2004

SUBJECT: Filings by NEW YORK STATE ELECTRIC & GAS CORPORATION

Amendment to Schedule P.S.C. No. 115 – Electricity  
Original Leaf No. 63-B

Issued: August 7, 2003

Effective: August 11, 2003

Amendments to Schedule P.S.C. No. 115 – Electricity  
Original Leaves Nos. 63-C, 63-D, 63-E, 63-F, 63-G, 63-H, 63-I,  
63-J, 63-K, 63-L, 63-M, 63-N  
First Revised Leaf No. 63-B  
Second Revised Leaves Nos. 14-B, 61-A, 61-B, 61-C  
Third Revised Leaf No. 63-A  
Fifth Revised Leaves Nos. 56, 61, 63  
Tenth Revised Leaf No. 62  
Thirteenth Revised Leaves Nos. 57, 59  
Fourteenth Revised Leaf No. 60  
Sixteenth Revised Leaf No. 58  
Thirtieth Revised Leaf No. 2

Issued: October 31, 2003

Effective: February 1, 2004

Amendments to Schedule P.S.C. No. 115 - Electricity  
Sixth Revised Leaf No. 56  
Fourteenth Revised Leaves Nos. 57, 59  
Seventeenth Revised Leaf No. 58

Issued: December 23, 2003

Effective: February 1, 2004

Amendments to Schedule P.S.C. No. 120 – Electricity\*  
Original Leaves Nos. 286.1, 294.1, 294.2, 294.3, 294.4, 294.5,  
294.6, 294.7, 294.8, 294.9, 294.10, 294.11, 294.12  
First Revised Leaves Nos. 2, 3, 17, 282, 283, 284, 285, 286, 287,  
288, 289, 290, 291, 292, 293, 294

Issued: January 30, 2004

Effective: February 1, 2004

\* NYSEG has converted its tariff provisions from Schedule No. 115 into electronic format as Schedule No. 120. NYSEG's compliance filing contains standby tariffs from its October 31, 2003 filing so that those leaves would also be converted into electronic format per Commission Order issued November 28, 2003 in Case 03-E-1552.

SUBJECT: Filings by ORANGE AND ROCKLAND UTILITIES, INC.

Amendment to Schedule P.S.C. No. 2 – Electricity  
Fifth Revised Leaf No. 18A

Issued: August 7, 2003

Effective: August 8, 2003

Amendments to Schedule P.S.C. No. 2 – Electricity  
Original Leaves Nos. 138, 139, 140, 141, 142  
First Revised Leaves Nos. 125, 126, 127, 128, 129, 130, 131, 132,  
133, 134, 135, 136, 137  
Second Revised Leaves Nos. 15D, 22L-22, 22-O-1, 23Z-4  
Fourth Revised Leaf No. 22L-20  
Fifth Revised Leaves Nos. 22L-5, 22L-10, 22L-17, 23Y, 100  
Sixth Revised Leaves Nos. 18A, 22L-3, 23Z, 98  
Seventh Revised Leaf No. 15A  
Eighth Revised Leaf No. 22L  
Thirteenth Revised Leaf No. 18  
Seventeenth Revised Leaf No. 48A  
Twenty-Eighth Revised Leaf No. 3  
Thirty-Second Revised Leaf No. 47

Issued: November 3, 2003

Effective: February 1, 2004

Amendments to Schedule P.S.C. No. 2 – Electricity  
First Revised Leaves Nos. 138, 139, 140, 141, 142

Issued: January 30, 2004

Effective: February 1, 2004

SUBJECT: Filings by ROCHESTER GAS AND ELECTRIC CORPORATION

Amendment to Schedule P.S.C. No. 19 – Electricity  
Original Leaf No. 222.1

Issued: August 7, 2003

Effective: August 11, 2003

Amendments to Schedule P.S.C. No. 19 – Electricity  
Original Leaves Nos. 237, 238, 239, 240, 241, 242, 243, 244, 245,  
246, 247, 248, 249, 250  
First Revised Leaves Nos. 2, 36, 222.1

Amendments to Schedule P.S.C. No. 20 – Electricity  
Original Leaves Nos. 177.1, 177.2, 177.3, 177.4, 177.5, 177.6,  
177.7, 177.8, 177.9, 177.10, 191.1  
First Revised Leaf No. 187.1

Issued: November 3, 2003

Effective: February 1, 2004

Amendments to Schedule P.S.C. No. 19 – Electricity  
First Revised Leaves Nos. 237, 239, 240, 241

Amendments to Schedule P.S.C. No. 20 – Electricity  
First Revised Leaves Nos. 177.1, 177.3, 177.4

Issued: January 6, 2004

Effective: February 6, 2004

Amendments to Schedule P.S.C. No. 19 – Electricity  
First Revised Leaf No. 244  
Second Revised Leaves Nos. 240, 241

Amendments to Schedule P.S.C. No. 20 – Electricity  
First Revised Leaves Nos. 177.5, 177.6  
Second Revised Leaf No. 177.4

Issued: January 30, 2004

Effective: February 1, 2004

# CERTIFICATE OF SERVICE

I, Bruce S. Barnett, hereby certify that I served the foregoing Supplemental Response of the Joint Supporters to Information Request NSTAR-JS-1-2 on all parties of record in this proceeding this 17th day of May 2004.

  
Bruce S. Barnett